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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,492	11/19/2001	Tom Tollius	TOL-100	5196

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EXAMINER

SILBERMANN, JOANNE

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.
997492

Applicant(s)
Tollus

Examiner
Silbermann

Group Art Unit
3611

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 7-25-03
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1, 4, 5, 7-20, 22-33, 35-39 is/are pending in the application.
- Of the above claim(s) 7, 8, 11, 12, 19, 20, 25, 26, 28-33, 38 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1, 4, 5, 9, 10, 13-18, 22-24, 27, 35-37, 39 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

DETAILED ACTION

Election/Restrictions

1. Claims 7, 8, 11, 12, 19, 20, 25, 26, 28-33 and 38 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the message display (the card insert) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 5, 14, 16, 22, 35, 36 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Scalice, US #3,596,390.

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5. Scalice discloses a communication device including a panel frame (Figure 1) including (instructional and indicating) windows 40 and indicators 46. Upper guide surface 28 includes a plurality of displays (Fig. 2) that may be considered to be room-type or messages. Additionally, patentable novelty cannot be principally predicated on mere printed matter and arrangements thereof, but must reside basically in physical structure.

6. Scalice also teaches indicator slots 38 adjacent the indicator windows. Indicators 46 slide horizontally in slots 38 to show different displays in the windows.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4, 9, 10, 15, 17, 18, 23, 24 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scalice.

9. Scalice does not teach a vertical slot for the indicator, however, this is considered to be an equivalent alternative. It would have been obvious to a person having ordinary skill in the art to arrange the slots vertically if the display is long or if it is desired to slide the indicators up and down instead of sideways.

10. Scalice does not specifically teach the display as being "change sheets" etc. however, the particular indicia shown on a display cannot alone provide patentability. Where the sole distinction set out in the claims over the prior art is in the printed matter,

there being no new feature of physical structure and no new relation of printed matter to physical structure, such claims may not be allowed.

11. Claims 13 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scalice in view of Ellis et al. US #3,983,649.

12. Scalice does not teach a card insert in addition to the indicator display, however, this is well known in the art, as shown by Ellis et al. Ellis et al. teach indicator display 34 (Fig. 1) as well as a message display including card inserts 16. It would have been obvious to one of ordinary skill to utilize such pockets in the display of Scalice to provide a place for holding additional displays.

Response to Arguments

13. Applicant's arguments filed July 25, 2003 have been fully considered but they are not persuasive.

14. Applicant argues that Scalice does not appear to disclose a device having an indicator, etc. (Applicant's response, page 11) however, these elements are specifically described in the rejection.

15. Applicant also argues that the messages are different, that messages facilitate a method of doing business, and the content of the messages adds to the physical differences between the instant invention and the prior art. The examiner disagrees. The instant invention is a changeable sign, not a method of doing business and the rejections are based on the structure of the invention. The indicia (messages) are different, however, as explained in the rejection, this in itself cannot be relied upon for patentability. The relationship of the indicia with the structure of the sign is not new and

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unobvious over Scalice. Both show a changeable sign having indicia that is revealed by sliding an indicator. Both are part of the changeable indicator art. The fact that one includes indicia regarding cosmetics and the other regarding hotel information does not make them nonanalogous or from a different field of endeavor.

Conclusion

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Silbermann whose telephone number is 703-308-2091. The examiner can normally be reached on Tu-Th 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Joanne Silberman
Primary Examiner
Art Unit 3611

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